IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3468 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

PANCHMAHALS JILLA ADIVASI SARVODAYA EDU TRUST SANCHALIT
Versus
STATE OF GUJARAT, THROUGH SECRETARY, EDUCATION DEPTT

Appearance:
MS MAMTA R VYAS for Petitioner
Ms NANDINI JOSHI, AGP for Respondent No. 1, 2

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 14/06/2001

ORAL JUDGEMENT

Rule. Ms Nandini Joshi, learned AGP waives service of Rule for the respondents.

2. The petitioner-institution has challenged the communication dated 7.4.2000 (Annexure "E") from the Joint Director of Education (10+2 Cell) informing the

petitioner that by letter dated 24.2.2000 the State Government in the Education Department has rejected the petitioner's application for permission to open a new higher secondary school in the general stream.

3. The challenge is made on various grounds. It is, however, not necessary to enumerate those contentions or to go into the merits of such contentions because one ground on which the said decision is required to be quashed and set aside is that the impugned communication does not contain any reasons for rejecting the petitioner's application and also because the petitioner-institution was not given any opportunity of being heard before the State Government took the impugned decision to reject the petitioner's application.

4. In view of the above, this petition is partly allowed. The impugned communication dated 7.4.2001 at Annexure "E" to the petition as conveying the State Government's decision dated 24.2.2000 is hereby quashed and set aside and the State Government in the Education Department is directed to reconsider the matter after giving the petitioner an opportunity of being heard. In case the decision is adverse to the petitioner, the same shall be communicated by a reasoned order. This exercise shall be completed within a period of one month from the date of receipt of the writ of this Court or a certified copy of this order, whichever is earlier.

In order to ensure that the time limit is complied with, the petitioner is directed to appear before the Secretary/Joint Secretary/Deputy Secretary in the Education Department of the State Government who is in charge of the subject matter, on 21.6.2001. On that date, the petitioner's representative shall appear before the aforesaid officer/s who will be at liberty to fix some other date of hearing. This is only to avoid any communication gap or any loss of notice in the transit which may unnecessarily inconvenience all the parties concerned.

The learned counsel for the petitioner agrees that the petitioner's representative posted with all the relevant information shall remain present before the said officer/s of the State Government on 21.6.2001 at 11.00 A.M. On the said date, the concerned officer shall inform the petitioner's representative about the shortcoming/s which led to the previous decision and give the petitioner a week's time to make their submissions in respect of those alleged shortcomings.

The learned AGP also agrees to convey this order to the Secretary in the Education Department.

Rule is made absolute to the aforesaid extent with no order as to costs.

Direct Service is permitted.

(M.S. Shah, J.)

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